IN THE HIGH COURT OF JUDICIATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.949 OF 1998

The Commissioner of Income-tax,
Pune .. Applicant.
V/s.
Shri Mahavir Ispat Ltd., Tarapur .. Respondent.

Mr.Parag Vyas with Mr.Ashok Kotangale & Mr.A.S. Rao for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 18TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following question for the opinion of this Court reading as under :-

Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that for the purpose of deduction u/s.80J of the Act, the working capital of the new industrial undertaking is to be computed on the basis of average gross capital of the accounting year and not the capital as on the first day of the accounting year reduced by borrowed capital and liabilities as required by Rule 19A of the I.T. Rules, 1962 ?

2. The learned counsel for the applicant-revenue fairly submits that the above question has already been answered by the Supreme Court in the case of Lohia Machines V/s. UOI [(1985) 152 ITR 308 (SC)] in favour of the revenue and against the assessee. In this view of the matter, question stands answered in affirmative for the reasons stated in the case cited supra. Reference, accordingly stands disposed of with no order as to costs.

****